UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1/Add.24
16 June 1998

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee
on Economic, Social and Cultural Rights

SRI LANKA

1. The Committee considered the initial report of Sri Lanka on the implementation of the Covenant (E/1990/5/Add.32), together with the written replies to the list of questions, at its 3rd to 5th meetings, held on 28 and 29 April 1998, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Sri Lanka which generally conforms to its guidelines on the preparation of reports. The Committee expresses appreciation for the frank and constructive dialogue with representatives of the State party and for additional information presented during the dialogue.

B. Positive aspects

3. The Committee notes with satisfaction the desire expressed by the Government of Sri Lanka to promote the economic, social and cultural rights of its citizens in spite of the armed conflict in the country. It notes with appreciation the numerous international agencies involved in humanitarian assistance in cooperation with the Government of Sri Lanka.

---

* At the 25th meeting (eighteenth session), held on 13 May 1998.

4. The Committee notes with appreciation that in spite of its relatively low per capita income, Sri Lanka has achieved progress in providing essential social services including free and compulsory education for all up to the age of 16, free health care, and food subsidies and supplements for targeted vulnerable groups. This has resulted in a higher UNDP human development index rating in relation to other countries in the same income group.

C. Factors and difficulties impeding the implementation of the Covenant

5. The Committee recognizes that the prolonged period of violence and conflict that has affected Sri Lanka since 1983 has hampered the realization of economic, social and cultural rights in the country. The conflict has resulted in large-scale internal displacement of people, hindered government efforts to provide essential services in the affected areas, and diverted resources from social and development objectives.

D. Principal subjects of concern

The armed conflict between the Government and the Liberation Tigers of Tamil Eelam (LTTE)

6. The Committee regrets that its dialogue with representatives of the State party regarding the root causes of the armed conflict was inconclusive; the absence in the report of statistics relating to the north and east of the country can only reinforce the view of the Committee that the question of discrimination in relation to the economic, social and cultural rights of ethnic groups remains the central issue in the armed conflict in Sri Lanka. In this regard, the Committee notes with concern that the Government's peace plan, consisting of devolution of authority to regional governments through constitutional reform, has not been implemented. Although it has been more than three years since the plan was introduced, the timetable for its implementation, as well as for a referendum to determine public acceptance, remains unclear.

7. The Committee expresses its grave concern regarding the situation of an estimated 800,000 persons displaced because of the armed conflict, many of whom have been living in temporary shelters for the past 15 years and who lack basic sanitation, education, food, clothing and health care. It is reported that Tamil families who were forced by the military to leave their ancestral villages in the Welioya region are among the displaced. The Committee is alarmed by the results of an independent survey which estimated the incidence of undernourishment of women and children living in temporary shelters to be as high as 70 per cent, and by reports that in many cases food assistance did not reach the intended beneficiaries.

Discrimination

8. The Committee notes with concern the uncertain situation of 85,000 Tamils of Indian origin living in Sri Lanka. They possess neither Indian nor Sri Lankan citizenship, have no access to basic services such as education, and do not enjoy their economic, social and cultural rights.

9. The Committee notes with concern the existence of disparities between statutory law and customary law. The age for marriage in statutory law is 18 years old but girls as young as 12 years of age are able to marry under customary law, as long as the parents consent. The Committee is of the view that the practice of early marriage has negative impacts on the right to health, right to education and the right to work, particularly of the girl child. In statutory law, there is equality of inheritance among siblings while customary law discriminates against married women who, unlike married men, may not inherit family property. In allowing customary law to prevail over statutory law in this regard, the Government is not complying with its obligation to protect the rights of women against discrimination.

10. The Committee further notes with concern that existing legislation discriminates against children born out of wedlock who may inherit only from their mother. This legislation violates the rights set forth in article 10 of the Covenant.

11. The Committee expresses its deep concern at the lack of anti-discrimination mechanisms in the area of employment with regard to women and minority groups. The Committee notes that while a system of ethnic recruitment quotas is in place in the public sector, there is no effort to ensure that promotions in the public sector and employment in the private sector are free from discrimination. In particular, the concept of equal pay for work of equal value is not applied effectively in Sri Lanka, particularly in the private sector where women have no legal protection against discrimination in employment.

Women and children

12. The Committee deplores the Government's inability to implement its child labour laws effectively. Thousands of children are known to be fully employed, while thousands more are working as domestic servants in urban areas where many are mistreated, sexually abused and driven to prostitution. In addition, the Committee is deeply concerned about the sexual exploitation of Sri Lankan children by foreign tourists. The Committee regrets that detailed information on the magnitude of the problem was not provided. The Committee regrets further that the report of the State party does not provide a satisfactory indication of how serious the Government's efforts to protect the rights of these children are. The Committee notes with particular regret that more than 50 per cent of prostitutes are children.

13. The Committee notes with concern the plight of hundreds of thousands of Sri Lankan women working abroad as domestic helpers, many of them underpaid and treated as virtual slaves. The Committee regrets that the Government has not made a serious effort to assess the negative impact of this phenomenon on children who are left in vulnerable and difficult circumstances without their mothers and to take appropriate remedial measures.

14. The Committee notes that Sri Lanka not only has the second highest rate of suicide among youth in the world, but a rising incidence of drug and alcohol dependence, adolescent crime, child abuse, sexual disorders and

domestic violence against women. The Committee expresses its deep regret that the Government has failed to comply with its obligation under article 10 of the Covenant (concerning protection of the family) and article 12.

The right to an adequate standard of living

15. The Committee notes with grave concern the information from UNDP that 22 per cent of the population of Sri Lanka lives in poverty, and that many women and children are suffering from malnutrition. It also notes with grave concern the information regarding the continued acute shortages of adequate housing and construction materials for homes in need of repair. The Committee further notes the lack of updated information on the measures implemented by the Government in accordance with its obligations under article 11 of the Covenant.

Other concerns

16. The Committee also notes with concern that inadequate efforts appear to have been made by the Government to promote awareness among the women of Sri Lanka of their human rights.

17. The Committee is concerned that the Constitution does not expressly recognize the right to strike and imposes vague restrictions on the right to form trade unions, which would lead to penalties being arbitrarily imposed on workers who exercise these rights.

18. The Committee notes with concern that the current policy allowing industry-specific wage boards to determine minimum wages does not protect workers in the smaller industries which are not part of the wage board system.

19. The Committee expresses concern that the distinction contained in the current Constitution between "citizens" and "other persons" with respect to the right to equality, has not been removed from the proposed revised Constitution currently before Parliament.

20. The Committee notes with concern the uncertain situation concerning demolition of houses and illegal settlements in Sri Lanka.

E. Suggestions and recommendations

21. The Committee is fully aware of the human and material costs of the armed conflict in Sri Lanka and the deleterious effects this has on the economic, social and cultural rights of every person living in the country. In the hope of a just, speedy and peaceful solution to the war, the Committee urges the Government, as a matter of the highest priority, to negotiate the acceptance by all concerned of its proposed peace plan involving devolution of authority to regional governments. The Committee requests the State party to include in its next report detailed information on how the process of devolution of authority affects the enjoyment of economic, social and cultural rights throughout the country. In this regard, the Committee reiterates that it attaches great importance to the gathering of relevant data, disaggregated

by all factors including gender, age, ethnicity and nationality, which may help identify vulnerable groups in society. The Committee requests that such data be made available to it in the next report of the State party.

22. The Committee strongly recommends that the Government establish mechanisms to facilitate the flow of humanitarian assistance and to strictly monitor and ensure that the intended recipients actually receive the assistance. In particular, the Committee urges the Government to seek further international assistance in its efforts to provide permanent housing to displaced persons who have been living in "temporary" shelters since the war began 15 years ago. It is further recommended that the Government reassess the food assistance programme already in place in affected areas with a view to improving the nutritional standards of the food provided, particularly to children and expectant and nursing mothers.

23. The Committee takes note of the Governments's avowed plans to award citizenship to the 85,000 stateless Tamils living on Sri Lankan territory. The Committee requests an update regarding this situation in the next periodic report.

24. The Committee urges the State party to enforce the minimum legal age for marriage of 18 years, as well as inheritance laws affecting women, thereby superseding discriminatory customs and traditions. The Committee urges the State party to repeal all laws that discriminate against children born out of wedlock.

25. The Committee recommends that the State party adopt policies and implement relevant measures to combat discrimination in employment against women and minority groups in both the private and public sectors. Particular attention should be paid to the enjoyment by women and men of the right to equal pay for work of equal value.

26. The Committee urges the Government vigorously to enforce its child labour laws and to establish immediately a legal minimum age for work in all industries that is in accordance with international standards. In relation to the exploitation of children, the Committee strongly recommends that Sri Lankan authorities renew their efforts to seek out those who are responsible for the sexual exploitation of children and to prosecute them to the full extent of the law. The Committee encourages the Government to seek the cooperation of other Governments in bringing to justice all those who engage in the sexual exploitation of children, and international assistance to establish rehabilitation programmes to facilitate the reintegration into society of children who have been victimized.

27. The Committee strongly recommends that the Government undertake an assessment of the impact on children of the prolonged absence of their mothers working abroad with a view to educating Sri Lankan women in this regard, and to discourage women from leaving the country for employment abroad as domestic helpers, the conditions of which are often deplorable.

28. The Committee further requests that an updated report be provided on progress achieved by the Government in addressing the problems of poverty, malnutrition and lack of adequate housing.

29. The Committee recognizes that economic conditions provide a strong incentive for many adults to seek work abroad, but notes that any resulting separation of parents, and especially mothers, from their children can have significant negative consequences, especially for the children. The Committee recommends that a study be undertaken to shed more light on the issues involved and to provide a basis for more informed decision-making in such cases.

30. The Committee has taken note that a presidential task force has been investigating the problem of suicide among the youth and has issued recommendations in this regard. The Committee requests that the report of this task force, as well as information on action pursuant to its recommendation, be made available in the next report submitted by the State party.